

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, P.L. 100-4, the “Act”, the

**FMC Corporation
Phosphorus Chemicals Division**

is authorized to discharge from a facility located at **Pocatello, Idaho** (latitude: 42° 54=44”; longitude: 112° 31=10”)

to receiving waters named **Portneuf River**,

in accordance with the discharge point, effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective

This permit and the authorization to discharge shall expire at midnight,

Signed this day of

Director, Office of Water, Region 10
U.S. Environmental Protection Agency

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I. SPECIFIC LIMITATIONS AND REQUIREMENTS

A. Effluent Limitations

1. During the effective period of this permit, the permittee is authorized to discharge from outfall 001, subject to the restrictions set forth herein. This permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility as disclosed in the permit application, or any pollutants that are not ordinarily present in such waste streams. The facility may discharge waste streams and pollutants associated with operations which would not require notification under Part **IV.A. Notice of New Introduction of Pollutants** of this permit.
2. There shall be no discharge of floating solids, visible foam, or oily wastes which produce a sheen on the surface of the receiving water.
3. The discharge of chemicals in toxic amounts is prohibited pursuant to Section 101(a)(3) of the CWA and the Idaho water quality standards (IDAPA 16.01.02.200.02), which prohibits the discharge of toxic pollutants in toxic amounts.
4. The following effluent limits shall apply at all times:

TABLE I-1: EFFLUENT LIMITATIONS					
Effluent Parameter	Unit of Measurement	Average Monthly	Maximum Daily	Average Daily	Minimum Daily
Ammonia ¹	mg/L	0.08	0.35	---	---
	lbs/day	1.44	6.71	---	---
Cadmium ¹	µg/L	1 ²	3	---	---
	lbs/day	0.02	0.06	---	---
Chlorine, total residual ^{1,3}	µg/L	6	19	---	---
	lbs/day	0.11	0.36	---	---
Copper	µg/L	15.8	29.8	---	---
	lbs/day	0.30	0.57	---	---
Cyanide (WAD) ¹	µg/L	4.0	16.7	---	---
	lbs/day	0.08	0.32	---	---
Elemental Phosphorus ¹	µg/L	---	0.10 ⁴	---	---
Fluoride	mg/L	4.3	17.0	---	---
	lbs/day	81	323	---	---
Lead ¹	µg/L	2.5	11.5	---	---
	lbs/day	0.05	0.22	---	---
Nitrate+Nitrite as N	mg/L	0.10	0.15	---	---
	lbs/day	1.90	2.87	---	---
Orthophosphate as P ¹	µg/L	35	90	---	---
	lbs/day	0.66	1.71	---	---
Selenium ¹	µg/L	3.7 ⁵	12.2	---	---
	lbs/day	0.07	0.23	---	---
Silver ¹	µg/L	2.9	9.7	---	---
	lbs/day	0.06	0.19	---	---
Temperature ⁶ (Aug 2 - March 31)	°C	---	21	19	---
	BTU/day	---	1.0x10 ⁸	---	---
Temperature ⁶ (Apr 1 - Aug 1)	°C	---	13	9	---
	BTU/day	---	0	---	---
Total Phosphorus as P ¹	mg/L	0.070	0.180	---	---
	lbs/day	1.3	3.4	---	---
Zinc ¹	µg/L	79.1	192	---	---
	lbs/day	1.51	3.65	---	---
<p>1 Reporting is required within 24-hours if the maximum daily limit is violated.</p> <p>2 Shall be below detectable limits prior to discharge based upon the EPA approved method 200.7 Final compliance evaluation limit is 2 µg/L (0.4 lb/day).</p> <p>3 Shall be below detectable limits prior to discharge based upon the EPA approved DPD method 330.4. Final compliance evaluation limit is 0.100 mg/L (1.9 lbs/day).</p> <p>4 The permittee shall initiate an investigation and report to EPA when levels are exceeded.</p> <p>5 Shall be below detectable limits prior to discharge based upon the EPA approved method 270.2. Final compliance evaluation limit is 0.005 mg/L (0.1 lbs/day).</p> <p>6 Thermal loading shall be computed using the following formula: $[\text{flow (gal/day)}] \times [8.345 \text{ (lb/gal)}] \times [\text{effluent temperature (°F)} - \text{receiving water temperature (°F)}]$ or $[\text{flow (gal/day)}] \times [8.345 \text{ (lb/gal)}] \times [\text{effluent temperature (°C)} - \text{receiving water temperature (°C)}] \times 1.8$ </p>					

B. Effluent Monitoring Requirements

1. During the effective period of this permit, the following monitoring requirements shall apply:

TABLE I-2: EFFLUENT MONITORING REQUIREMENTS			
Effluent Parameter	Units	Sample Frequency	Sample Type
Ammonia as N	mg/L	4/month	24-hour composite
Cadmium	µg/L	4/month	24-hour composite
Chlorine, total residual	µg/L	4/month	grab
Copper	µg/L	4/month	24-hour composite
Cyanide (WAD)	µg/L	4/month	grab
Elemental Phosphorus	µg/L	4/month	24-hour composite
Flow	mgd	continuous	recording
Fluoride	mg/L	4/month	24-hour composite
Hardness as CaCO ₃	mg/L	4/month	24-hour composite
Lead	µg/L	4/month	24-hour composite
Nitrate+Nitrite	mg/L	4/month	24-hour composite
Orthophosphate as P	µg/L	4/month	24-hour composite
pH	s.u.	4/month	grab
Selenium	µg/L	4/month	24-hour composite
Silver	µg/L	4/month	24-hour composite
Temperature	°C	continuous	recording
TIN	mg/L	4/month	24-hour composite
Total Phosphorus as P	µg/L	4/month	24-hour composite
Zinc	µg/L	4/month	24-hour composite

2. Sample Location. Effluent samples shall be collected after the last treatment unit prior to discharge. The permittee is allowed to sample at the effluent pumphouse as an alternate monitoring location.
3. The permittee shall use method OIA-1677 to determine compliance with cyanide (WAD) limit.

C. Ambient Monitoring Requirements

1. During the effective period of this permit, the permittee shall conduct monitoring upstream and downstream of outfall 001. Ambient monitoring shall occur at the upstream and downstream locations determined by the permittee and IDEQ.
2. The permittee shall conduct the following ambient monitoring:

TABLE I-3: AMBIENT MONITORING REQUIREMENTS				
Effluent Parameter	Units	Sample Frequency	Sample Location	Sample Type
Ammonia as N	mg/L	1/month	upstream & downstream	grab
Cadmium	µg/L	1/month	upstream & downstream	grab
Chlorine, total residual	µg/L	1/month	upstream & downstream	grab
Copper	µg/L	1/month	upstream & downstream	grab
Cyanide (WAD)	µg/L	1/month	upstream & downstream	grab
Elemental Phosphorus	µg/L	1/month	upstream & downstream	grab
Flow	mgd	continuous	upstream	recording
Fluoride	mg/L	1/month	upstream & downstream	grab
Hardness as CaCO ₃	mg/L	1/month	upstream	grab
Lead	µg/L	1/month	upstream & downstream	grab
Nitrate+Nitrite	mg/L	1/month	upstream & downstream	grab
Orthophosphate as P	µg/L	1/month	upstream & downstream	grab
pH	s.u.	1/month	upstream & downstream	grab
Selenium	µg/L	1/month	upstream & downstream	grab
Silver	µg/L	1/month	upstream & downstream	grab
Temperature	°C	continuous	upstream	recording
TIN	mg/L	1/month	upstream & downstream	grab
Total Phosphorus as P	µg/L	1/month	upstream & downstream	grab
Zinc	µg/L	1/month	upstream & downstream	grab

3. Ambient monitoring activities shall occur within the same 24-hour period as effluent monitoring activities.

D. Quality Assurance Requirements

1. Within 180 days of the effective date of this permit, the permittee shall develop and submit a Quality Assurance Project Plan (QAPP).

note: The document *Guidance for Preparation of Quality Assurance Project Plans*, EPA, Region 10, Quality and Data Management Program, QA/G-5,

can be used as a helpful reference guide in preparing the QAPP. This document is available as an Adobe Acrobat file at <http://www.epa.gov/r10earth/offices/oea/qaindex.htm>.

2. At a minimum, the following information shall be provided in the QAPP:
 - Sample location and frequency;
 - Sample handling procedures;
 - Parameters, test methods, and detection limits;
 - Number of QC samples, spikes and replicates required for analysis (for precision accuracy);
 - Documentation requirements for the laboratory (i.e., retention time, QA/QC procedures for test methods, etc.);
 - Organizational responsibilities - who is responsible for QA/QC activities (i.e., who takes samples, who reviews the data analysis, etc.); and
 - Name(s), address(es), and phone number(s) of laboratories used or proposed to be used by the permittee.
3. The permittee is responsible for reviewing and updating the QAPP to ensure all material is current and applicable.
4. The permittee shall amend the QAPP whenever there is a modification in the sample collection, sample analysis, or conditions or requirements of the QAPP change.
5. Copies of the QAPP shall be kept on site and shall be made available to EPA and IDEQ upon request.
6. The permittee shall require the laboratory director of each laboratory providing measurement results in support of this permit to sign and submit to EPA the following statement on a monthly basis with the DMR:

I certify that this data is in compliance with the requirements under 40 CFR part 136 and other analytical requirements specified in NPDES permit No. ID-000022-1.

Signature: _____ ***Date:*** _____
Name of Certifying Laboratory: _____
Identification Number: _____

E. Operation and Maintenance Plan Review

1. Within 180 days of the effective date of this permit, the permittee shall develop and submit an operation and maintenance (O&M) plan that includes appropriate best management practices (BMPs); the plan must be reviewed and updated annually thereafter. (BMPs include measures which prevent or minimize the potential for the release of pollutants to the Portneuf River.) The O&M Plan shall be retained on site and made available to EPA and IDEQ upon request.
2. The permittee shall develop a description of pollution prevention measures and controls appropriate for the facility. The appropriateness and priorities of controls in the O&M Plan shall reflect identified potential sources of pollutants at the facility. The description of BMPs shall address, to the extent practicable, the following minimum components:
 - Spill prevention and control;
 - Optimization of chemical usage;
 - Preventive maintenance program;
 - Minimization of pollutant inputs from industrial users;
 - Research, develop and implement a public information and education program to control the introduction of household hazardous materials to the sewer system; and
 - Water conservation.

F. Chronic Toxicity Requirements

1. Testing Frequency. (Testing requirements in paragraphs F.1.c and d may be modified based on consultation with EPA.)
 - a. The permittee is required to conduct quarterly chronic toxicity tests on 24-hour composite effluent samples. Samples shall be taken at the NPDES sampling location.
 - b. If, after one year of testing, the maximum measured toxicity is less than or equal to the toxicity trigger specified in Section F.3.a, then the permittee is only required to conduct quarterly chronic toxicity tests in the fourth year.
 - c. If chronic toxicity is detected above the trigger specified in paragraph F.3.a. and the source of toxicity is known (e.g., temporary plant upset), then the permittee is required to perform one additional test. If toxicity persists, then the permittee is

required to collect six additional samples and perform a TRE as specified in Section F.6.

- d. If chronic toxicity is detected above the trigger specified in paragraph F.3.a and the source of toxicity is unknown, then the permittee is required to collect six additional samples and perform a TRE as specified in Section F.6.
- e. TRE sampling required in Section F.6. is conducted approximately every two weeks over a twelve-week period. Testing shall commence within two weeks of receipt of the sample results that indicated the exceedance of the WET monitoring trigger.

2. Test Species and Methods

- a. The permittee shall conduct short-term tests with the following species:

cladoceran, water flea (*Mysidopsis bahia*) survival and growth

- b. During the fourth year of the permit, the permittee shall conduct short-term tests with the following species:

fathead minnow (*Atherinops affinis*) survival and growth

cladoceran, water flea (*Mysidopsis bahia*) survival and growth

- c. The presence of chronic toxicity shall be estimated as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, Eds., Lewis P.A., D.J. Klemm, J.M. Lazorchak, T.J. Norberg-King, W.H. Peltier, and M.A. Herber (EPA/600/4-91/002).

3. Toxicity Trigger.

- a. The toxicity trigger for this facility shall occur when the reported toxicity level (NOEC/IC25) is greater than 1.0 TUC.
- b. If two tested concentrations cause statistically adverse effects in the calculation of the NOEC but an intermediate concentration did not cause statistically significant effects, then the test should be repeated or the lowest concentration must be used.

For example: 6.25, 12.5, 25, 50 and 100% effluent concentrations are tested. The 12.5 and 50% concentrations are statistically significant, but 25% is not significant. If the test is not repeated, then 6.25% must be reported as the NOEC.

4. Quality Assurance

- a. A series of at least five dilutions and a control shall be tested. The series shall include the receiving water concentration (RWC), two dilutions above the RWC, and two dilutions below the RWC. The expected RWC is 1.0 TUC.
- b. If organisms are not cultured in-house, concurrent testing with a reference toxicant shall be conducted. Where organisms are cultured in-house, monthly reference toxicant testing is sufficient.¹
- c. If either the reference toxicant test or the effluent tests do not meet all test acceptability criteria (TAC) as specified in the test methods manuals (See F.2.c), then the permittee must re-sample and re-test as soon as possible.
- d. Control and dilution water should be receiving water or laboratory water, as specified in the test methods manuals. If the dilution water used is different from the culture water, a second control, using culture water shall also be used.
- e. Chemical testing for the parameters for effluent monitoring (See Table I-2) shall be performed on a split of each sample collected for whole effluent toxicity (WET) testing. To the extent that the timing of sample collection coincides with that of the sampling required in Part I.B. of this permit, chemical analysis of the split sample will fulfill the requirements of that Part as well.

5. TRE Work Plan. The permittee shall submit to EPA and IDEQ a copy of the facility's initial investigation Toxicity Reduction Evaluation (TRE) Work Plan within 180 days of the effective date of this permit. This plan

¹ Reference toxicants shall also be conducted using the same test conditions as the effluent toxicity tests (e.g., the same test duration). In no case shall water that has not met test acceptability criteria be used for either dilution or control.

shall describe the steps the permittee intends to follow if toxicity is detected and should include, at a minimum, the following steps

- a. Information and Data Acquisition. Collect information and analytical data pertaining to effluent toxicity.
- b. Performance Evaluation. Identify the facility's methods of maximizing in-house treatment efficiency and good housekeeping practices.
- c. Toxicity Identification Evaluation. Identify investigation and evaluation techniques or actions that may be used to identify potential causes/sources of toxicity, effluent variability, and treatment system efficiency.
- d. Toxicity Control. Develop actions that will be taken to mitigate the impact of the discharge and to prevent the recurrence of toxicity.
- e. Schedule. Develop a schedule for TRE.

note: The document *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations (TREs)*, EPA/600/2-88/070, may be helpful in developing a TRE Work Plan for this facility.

6. Toxicity Reduction Evaluation (TRE). If chronic toxicity is detected as a result of exceedance of the trigger specified in Section F.3.a., then the permittee shall conduct additional testing in accordance with Section F.1.

- a. If chronic toxicity is detected in any of the additional tests, then the permittee shall initiate a TRE and follow the steps prescribed in the facility's TRE Work Plan within fifteen (15) days of receipt of the sample results of the exceedance.

note: The document *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations (TREs)*, EPA/600/2-88/070, may be helpful in developing a TRE for this facility.

- b. If none of the additional tests indicates toxicity, then the permittee may return to the normal testing frequency specified in F.1.

7. Reporting Requirements

- a. The permittee shall submit the results of the toxicity tests, including any accelerated testing conducted during the month, in TU_c^2 , with the discharge monitoring reports (DMR) for the month in which the test is conducted. If an initial investigation indicates the source of toxicity and accelerated testing is unnecessary, pursuant to Section F.6, then those results shall also be submitted with the DMR for the quarter in which the investigation occurred.
- b. The full toxicity report shall be submitted by the end of the month in which the DMR is submitted. The full toxicity report shall consist of:
 - (1) the toxicity test results;
 - (2) the dates of sample collection and initiation of each toxicity test;
 - (3) the toxicity trigger for the facility (see Section F.3.a);
 - (4) the type of activity occurring (e.g., secondary treatment of domestic sewage);
 - (5) the flow rate at the time of sample collection; and
 - (6) the chemical parameter monitoring required for the outfall as defined in Part I.B. of the permit.
- d. Test results for chronic tests shall be reported according to the chapter in the test methods manual on Report Preparation, and shall be attached to the DMR.
- e. The permittee shall notify EPA and IDEQ in writing within fifteen (15) days of receipt of toxicity testing results that indicate the exceedance of the toxicity trigger (see Section F.3.a). The notification will describe actions the permittee has taken or will take to investigate and correct the cause(s) of toxicity. It may also include a status report on any actions required by the permit, with a schedule for actions not yet completed. Where no actions have been taken, the notification shall include the reasons for not taking action.

² $TU_c = 100/NOEC$ or $100/IC_p$ or $100/EC_p$ where p represents the percent effluent.

G. Definitions

1. “Average monthly discharge limitation” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
2. “Average weekly discharge limitation” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week.
3. “Chronic toxicity” measures a sublethal effect (e.g., reduced growth, reproduction) in an effluent or ambient waters compared to that of the control organisms.
4. “Daily discharge” means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the “daily discharge” is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.
5. “Effective concentration (EC)” is a point estimate of the toxicant concentration that would cause a given percent reduction (p) in quantal biological measurement (e.g., larval development, survival) calculated from a continuous model (e.g., Probit).
6. A “Grab” sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.
7. “Inhibition concentration (IC)” is a point estimate of the toxicant concentration that causes a given percent reduction (p) in a non-quantal biological measurement (e.g., reproduction or growth) calculated from a continuous model (e.g., the EPA Interpolation Model).
8. “Maximum daily discharge limitation” means the highest allowable “daily discharge”.
9. “Method detection limit (MDL)” is the minimum concentration of an analyte that can be measured and reported with 99 percent confidence that

the analyte concentration is greater than zero as determined by a specific laboratory method (40 CFR 136).

10. “Minimum level (ML)” is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes and processing steps have been followed.
11. “No observed effect concentration (NOEC)” is the highest concentration of toxicant to which organisms are exposed in a chronic test, that causes no observable adverse effect on the test organisms (e.g., the highest concentration of toxicant to which the values for the observed responses are not statistically significant different from controls.)
12. “Pollutant”, for the purposes of this permit, is an organic substance, an inorganic substance, a combination of organic and inorganic substances, or pathogenic organisms that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food-chain, could, on the basis of information available to the Administrator of EPA, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.
13. “Suites of tests” means the two or three species used for testing during the permit term.
14. A “24-hour composite” sample shall mean a time-proportioned mixture of not less than eight discrete aliquots. Each aliquot shall be a grab sample of not less than 100 mL and shall be collected and stored in accordance with procedures prescribed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*.
15. A “TRE” is a site-specific study conducted in a stepwise process to narrow the search for effective control measures for effluent toxicity.
16. “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational

error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS

- A. **Representative Sampling.** Samples taken in compliance with the monitoring requirements established under Part I shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
- B. **Monitoring Procedures.** Monitoring must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this permit. When conducting monitoring, the following analytical method detection limits (MDLs) and minimum levels (MLs) shall be achieved:

TABLE II-1: ANALYTICAL TESTING REQUIREMENTS			
Effluent Parameter	Units	MDL	ML or RL
Ammonia as N	µg/L		30
Cadmium	µg/L	1	2
Chlorine, total residual	mg/L		0.1
Copper	µg/L	3	10
Fluoride	mg/L		0.1
Lead	µg/L	1	5
Nitrate+Nitrite	µg/L		10
Orthophosphate as P	µg/L		10
Selenium	µg/L	2	5
Silver	µg/L	0.2	1
Total Phosphorus as P	µg/L		10
Zinc	µg/L	5	50

- C. **Reporting of Monitoring Results.** Monitoring results greater than the MDL shall be reported as the actual value measured and monitoring results less than the MDL shall be reported as "<[MDL value]." Monitoring results shall be summarized each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1). The reports shall be submitted monthly and are to be postmarked by the 10th day of the following month. Legible copies of these, and all other reports, shall be signed and certified in accordance with the requirements of **Part IV.J. Signatory Requirements**, and submitted to the Director, Office of Water and the State agency at the following addresses:

original to: United States Environmental Protection Agency (EPA)

Region 10
NPDES Compliance Unit
1200 Sixth Avenue, OW-133
Seattle, Washington 98101

copy to: Idaho Division of Environmental Quality
Pocatello Regional Office
224 South Arthur
Pocatello, Idaho 83204
(208)236-6167

- D. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- E. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements,
 2. The individual(s) who performed the sampling or measurements,
 3. The date(s) analyses were performed,
 4. The individual(s) who performed the analyses,
 5. The analytical techniques or methods used, and
 6. The results of such analyses.
- F. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time. Data collected on-site, copies of DMRs, and a copy of this NPDES permit must be maintained on-site during the duration of activity at the permitted location.
- G. Twenty-four Hour Notice of Noncompliance Reporting

1. The following occurrences of noncompliance shall be reported to EPA and IDEQ by telephone within 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part **III.G. Bypass of Treatment Facilities**),
 - b. Any upset which exceeds any effluent limitation in the permit (See Part **III.H. Upset Conditions**), or
 - c. Violation of a maximum daily discharge limitation for those toxic or hazardous pollutants identified within Table I-1.
2. A written submission shall also be provided to EPA and IDEQ within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause,
 - b. The period of noncompliance, including exact dates and times,
 - c. The estimated time noncompliance is expected to continue if it has not been corrected, and
 - d. Steps taken or planned to reduce, eliminate, and prevent re-occurrence of the noncompliance.
3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Unit in Seattle, Washington, by phone, (206) 553-1846.
4. Reports shall be submitted to the addresses in Part **II.C. Reporting of Monitoring Results**.

H. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.C. are submitted. The reports shall contain the information listed in Part II.G.2.

I. Inspection and Entry. The permittee shall allow the Director or an authorized representative (including an authorized contractor acting as a representative of the

Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit,
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit,
 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.
- J. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any Compliance Schedule of this permit, shall be submitted no later than ten days following each schedule date.

III. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for: enforcement action; permit termination, revocation and re-issuance, or modification; or denial of a permit renewal application. The permittee shall give advance notice to the Director and IDEQ of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

B. Penalties for Violations of Permit Conditions

1. **Civil and Administrative Penalties.** Any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil or administrative penalty, not to exceed the maximum amounts authorized by Sections 309(d) and 309(g) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note).
2. **Criminal Penalties**
 - a. **Negligent Violations.** Any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(1) of the Act.
 - b. **Knowing Violations.** Any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(2) of the Act.
 - c. **Knowing Endangerment.** Any person who knowingly violates a permit condition implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine and/or imprisonment as specified in Section 309(c)(3) of the Act .
 - d. **False Statements.** Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(4) of the Act.

- C. Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

- D. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize, or prevent, any discharge, or sludge use or disposal, in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed, or used, by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. **Removed Substances.** Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of waste waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.
- G. **Bypass of Treatment Facilities**
1. **Bypass not exceeding limitations.** The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.
 2. **Notice**
 - a. **Anticipated Bypass.** If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least 10 days before the date of the bypass.
 - b. **Unanticipated Bypass.** The permittee shall submit notice of an unanticipated bypass as required under Part **II.G. Twenty-four Hour Notice of Noncompliance Reporting.**
 3. **Prohibition of Bypass**
 - a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage,

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and

(3) The permittee submitted notices as required under paragraph 2 of this section.

- b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determined that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. Necessary upset demonstration conditions. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset,
 - b. The permitted facility was at the time being properly operated,
 - c. The permittee submitted notice of the upset as required under Part **II.G. Twenty-four Hour Notice of Noncompliance Reporting**, and

d. The permittee complied with any remedial measures required under Part **III.D. Duty to Mitigate**.

3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

IV. GENERAL REQUIREMENTS

A. Notice of New Introduction of Pollutants

1. The permittee shall provide adequate notice to the Director, Office of Water, and IDEQ of:
 - a. Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to sections 301 or 306 of the Act if it were directly discharging those pollutants, and
 - b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.
2. For the purposes of this section, adequate notice shall include information on:
 - a. The quality and quantity of effluent to be introduced into such treatment works, and
 - b. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from such publicly owned treatment works.

B. Control of Undesirable Pollutants. Under no circumstances shall the permittee allow introduction of the following wastes into the waste treatment system:

1. Wastes which will create a fire or explosion hazard in the treatment works;
2. Wastes which will cause corrosive structural damage to the treatment works, but in no case, wastes with a pH lower than 5.0, unless the treatment works is designed to accommodate such wastes;

3. Solid or viscous substances in amounts which cause obstructions to the flow in sewers, or interference with the proper operation of the treatment works;
 4. Waste waters at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency; and
 5. Any pollutant, including oxygen demanding pollutants (e.g., BOD, etc.) released in a discharge of such volume or strength as to cause interference in the treatment works.
- C. Requirements for Industrial Users. The permittee shall require any industrial user of these treatment works to comply with any applicable requirements of sections 204(b), 307, and 308 of the Act, including any requirements established under 40 CFR 403.
- D. Planned Changes. The permittee shall give notice to the Director and IDEQ soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit. Notice is also required when the alteration or addition results in a significant change in the permittee's sludge use or disposal practices, including notification of additional use or disposal sites not reported during the permit application process.
- E. Anticipate Noncompliance. The permittee shall give advance notice to the Director and IDEQ of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- F. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and re-issuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- G. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.
- H. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine

whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

- I. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director or IDEQ, it shall promptly submit such facts or information.
- J. Signatory Requirements
 1. All applications, reports, or information submitted to the Director shall be signed and certified.
 2. All permit applications shall be signed by either a principal executive officer or ranking elected official.
 3. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Director, and
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
 4. Changes to authorization. If an authorization under paragraph IV.J.3 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph IV.J.3. must be submitted to the Director prior to, or together with, any reports, information, or applications to be signed by an authorized representative.

5. Certification. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

- K. Availability or Reports. Except for data determined to be confidential under 40 CFR part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.
- L. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.
- M. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private infringement of federal, state, or local laws or regulations.
- N. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- O. Transfers. This permit may be automatically transferred to a new permittee if:
1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date,

2. The notice includes a written agreement between the existing and new permittee's containing a specific date for transfer of permit responsibility, coverage, and liability between them, and
 3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.
- P. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by section 510 of the Act.
- Q. Reopener Provision. This permit is subject to modification, revocation and reissuance, or termination at the request of any interested person (including the permittee) or upon EPA initiative. However, permits may only be modified, revoked or reissued, or terminated for the reasons specified in 40 CFR Parts 122.62, 122.63 or 122.64, and 40 CFR Part 124.5. This includes new information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance and includes, but is not limited to, future monitoring results. All requests for permit modification must be addressed to EPA in writing and shall contain facts or reasons supporting the request.